In the United States Patent and Trademark Office

In re the Application of:

Joshua A. Norrid	)	
Serial Number: 09/963,716	)	Group: 3691
Docket Number: AUS920010667US1	)	Examiner: Stefanos Karmis
Filed on: 09/26/2001	)	
For: "Online Registration and Block Tracking for Travel Wholesalers, Agencies and Hotels"	)	

REPLY BRIEF

Appellant received the Examiner's Answer, and Appellant is not dissuaded from seeking appropriate patent protection for the advancement in the art of reservation technologies that Appellant has already provided to the public through the publication of this patent application.

Appellant respectfully maintains all arguments previously set forth in the Appeal Brief. A particular challenge was made in the Appeal Brief (pgs. 5 & 7) that the final rejections were erroneous for failing to establish where in the references these claim steps, elements and limitations are specifically taught:

> . . .
> via said customer-type tailored user interface on said clone reservation system, collecting from said booking party a reservation data set including itinerary and preferences for a customer;
> establishing a reservation in said hotel Property Management System according to said reservation data set if a matching service or product is available according to a hotel Property Management System inventory database, said reservation being associated with a customer profile;
> . . .

Please note that the Examiner's Answer did not contain a statement disagreeing with Appellant's assertion that these steps, elements and limitations were not specifically addressed in the final rejections. Failure to have addressed all steps, elements and limitations in the final rejections would have been, and Appellant respectfully contends, was in fact an error in examination.

The Examiner has addressed these steps, elements and limitations in the Examiner's Answer, but without designating them as a new grounds for rejection (37 CFR 41.39(a)(2)). Without such a designation of new grounds, Appellant does not have the option to request reopening of prosecution under 37 CFR 41.49(b)(1), which is predicated by "*[i]f* an examiner's answer contains a rejection *designated* as a new ground of rejection . . "

If the Examiner elects not to designate these additional statements for rejection which appear in the Examiner's Answer as "new grounds" in a Supplemental Examiner's Answer, and if the Examiner elects not to reopen examination to allow Appellant to respond to the additional reasons for rejection with appropriate additional evidence, argument, and/or amendment, Appellant respectfully requests the Board to disregard and set aside the Examiner's additional statements. The question which is reasonably before the Board is not whether the Examiner remains unpersuaded, as this is presumable else an Appeal would not be necessary, but whether or not an error in examination has occurred. In such a situation, and in view of the lengthy examination of this application since its filing date in 2001 with six actions on the merits, Appellant respectfully submits that it is fundamentally unfair to continue to deny patent protection for Appellant's work in this art over an incomplete rejection rationale. Appellant respectfully requests reversal of the rejection and allowance of the claims.

Specific Responses to the Examiner's Answer

Item 1, Page 9.

In this response, the Examiner appears to use personal knowledge in interpreting the term "itinerary", because (a) the term is not used in Mankes disclosure, and (b) the Examiner has not entered any extrinsic evidence regarding the definition of the term and/or its synonyms being employed. However, the Examiner has not explicitly stated that it is the Examiner's personal

knowledge that searching for availability of hotel rooms based on user input constitutes an itinerary and would have been considered submission or input of an itinerary by one of ordinary skill in the art at the time of our invention in 2001.

Firstly, the Examiner appears to be applying a definition of "itinerary" which would include a simple "inventory request":

Page 9 of the Examiner's Answer (emphasis added by Appellant):

> Mankes teaches that . . . users . . . can then make reservations through the ARS ***if it is determined that inventory is available*** (column 7, lines 47 thru column 8, line 2). Specifically, though, the user must still make an ***inventory request*** based on the displayed availability (column 7, lines 47-54). ***Therefore, the customer is providing an itinerary,*** not vice versa.

Page 10 of the Examiner's Answer (emphasis added by Appellant):

> . . . "makes a **specific inventory request**." (column 7, lines 47-54). This teaching of Mankes is **analogous to the Appellant's specification and definition of a reservation data set**.

Appellant respectfully submits that the Examiner's definition is not supported by our disclosure, is not supported by any extrinsic evidence supplied by the Examiner, and is not supported by a statement of personal knowledge by the Examiner. As such, the holding is improper and erroneous, whereas the claims should be interpreted in light of our disclosure and ordinary meanings of the terms:

> **itinerary.** 1. The route of travel. 2. In an airline booking, a list of flights, times, etc. 3. A detailed listing of all transportation, lodging, and activities on a trip. (Source: http://www.travel-industry-dictionary.com/itinerary.html)

itinerary *–noun*

1. a detailed plan for a journey, esp. a list of places to visit; plan of travel.
2. a line of travel; route.
3. an account of a journey; record of travel.
4. a book describing a route or routes of travel with information helpful to travelers; guidebook for travelers.

(Source: Dictionary.com)

An "inventory request" does not meet the definition of "a detailed plan for a journey", "a list of places to visit", or a "list of flights, times, etc.". The results of an inventory request may produce a list of available flights or rooms, from which the user may select desired rooms and thereby creating an itinerary, but, this is the temporal difference Appellant argues – the prior art shows creation of an itinerary *after* searching availability, not *before.*

The Examiner appears, potentially, to also equate customer preferences (smoking versus non-smoking) as anticipating an "itinerary". Appellant respectfully submits that preferences such as "smoking or non-smoking" do not constitute an itinerary, but are preferred conditions of travel in general for all rooms, all seats, etc., regardless of specific travel dates, room amenities, etc. For example, a user could state "I always try to get a window seat on flights." So, knowing only this preference, when and where is the user traveling? A preference may be *part* of an itinerary, but an itinerary is greater than simply a general conditional preference for travel. In fact, the Examiner alludes to agreeing with this in stating that, in the cited art, the user first finds available rooms, and then makes their decision regarding their stay. Again, this constitutes creating an itinerary *after* checking availability of rooms, which is the opposite of Appellant's claimed flow of actions.

Therefore, Appellant respectfully submits to employ a non-standard definition of the term "itinerary" to mean "travel preference" and/or "availability search query" without extrinsic evidence or an explicit statement of the Examiner's own knowledge is an error in examination.

Item 2 of the Examiner's Answer

There is no Item 2 of the Examiner's answer. Item 1 commences on page 9, and extends through page 11, where Item 3 commences.

Item 3, Page 11

Appellant respectfully submits that the Examiner has employed definitions of URL, domain, web address, and subdomain in inconsistent and unusual ways. It appears that the Examiner draws a distinction between the Appellant's claim which uses the terms "primary domain" and "web address", and the Appellant's argument which uses the terms "primary web address" and "clone web address", specifically pointing out that the Appellant "makes no mention of a domain" (lines 13 - 16, page 11).

Examiner's statement that Appellant "makes no mention of a domain" (lines 13 - 16, page 11) is false and misleading, as is evidenced by Appellant's disclosure (paragraph numbers are as provided in the Pre-Grant Publication of the application, emphasis added by Appellant):

> [0045] Any of the involved parties-the agent 12, the dot-com agent 102, the GDS system 14, or the guest 11 d a n communicate directly with the hotel system via the Internet 24. The booking system user is directed 25 to one of the web sites 23 which specifically addresses his or her needs, and collects a standardized, uniform set of information. According to the preferred embodiment, different **Universal Resource Locator (URL) addresses** are assigned to each web site 23 to achieve the redirection 25, but alternatively redirection could be done using **subdomains**, cookies, and applet functions.

> [0073] Turning to FIG. 3, the overall logical process of the invention is shown. First, the booking party is redirected 25 to an appropriate **clone web site or subdomain**. The booking party is then preferably provided an opportunity to create a new guest profile at a hotel of his or her choice, such as providing a button or link on a web page.

Examiner has not provided any extrinsic evidence to support this interpretation of the terms, and has not stated if this is of the Examiner's own knowledge. Appellant respectfully submits that such conclusory statements without evidence or affidavit are improper and erroneous.

For these reasons, and in view of the substantial examination of Appellant's claims which has been undertaken so far and yields only rejections based on erroneously applied definitions, Appellant respectfully requests immediate reversal of the rejections and allowance of the claims to provide the Appellant with the patent protection deserved for the advancement in the reservation technologies provided to the public in the 2003 publication of this patent application.

Respectfully,

/ Robert Frantz /

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